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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,372	04/12/2004	George J. Hobbs	5724-001	2828
25184	7590	07/10/2006	EXAMINER	
WILLIAM J. MASON MACCORD MASON PLLC POST OFFICE BOX 1489 WRIGHTSVILLE BEACH, NC 28480				SAFAVI, MICHAEL
				ART UNIT PAPER NUMBER
				3673

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/822,372	HOBBS, GEORGE J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	M. Safavi	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on January 11, 2006 & April 20, 2006.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1,3-7 and 9-20 is/are pending in the application.

4a) Of the above claim(s) 7 and 9-20 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 3-6 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:
 

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

***Election/Restrictions***

Applicant's election without traverse of the invention of Group I, claims 1 and 3-6, in the reply filed on April 20, 2006 is acknowledged.

Claims 7 and 9-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 20, 2006.

It has been noted that Applicant has inadvertently listed claims 1-7 as corresponding to the elected Group I to concrete form. However, claim 7 is directed to a concrete pad, (see listing of Group II within the requirement for restriction of March 21, 2006), while claim 2 has been canceled. Examination will, therefore, proceed with claims 1 and 3-6.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Lines 3-4 of claim 1 appear to define the claimed form in terms of an element which has not been positively introduced within the claim language. Therefore, it is not clear as to what "having...a length substantially equal to said given thickness" defines since a concrete pad does not form part of the invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman '525.**

As for **claim 1**, Coleman '525 discloses, Figs. 1, 3-6, and 8d, a polymer form 10 comprising a plurality of spaced, vertically aligned conduits 20, 22, 24, 26 having upper ends with spacers, (36 between each conduit), connecting the conduits, the ends 28, 30, 32, 34, of the form 10 constituting the sidewalls with Fig. 1 showing a rectangular shape. Coleman does not specifically set forth removable caps covering the conduit upper ends of the conduits 20, 22, 24, 26. However, Fig. 8d and col. 4, lines 47-49 of Coleman teach utilization of caps 86 covering conduits prior to final use of the form 10. And, col. 4, line 15 of Coleman teaches utilization of a cap 73 to close conduit 72 prior to final use. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the Coleman form of Fig. 1 with caps at the upper end thereof so as to inhibit any material such as debris, as taught by either of col. 4, lines 47-49 and col. 4, line 15 of Coleman. As to **claim 1**, the Coleman

'525 conduits possess a length and thus, meet the recitation of "having...a length substantially equal to said given thickness".

As for **claim 3**, forming the polymer Coleman form of a thermoplastic material such as a polyvinylchloride, thus taking advantage of such an old and well known material in the building art, would have constituted a further obvious to one having ordinary skill in the art at the time the invention was made.

As for **claim 4**, the form is of a rectangular shape with side 28, 30 and end 32, 34 walls.

As for **claim 6**, reinforcing rod attachments are provided as between 16 and 18; 14 and 16; and between 12 and 14.

**Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman '525 as applied to claims 1, 3, 4, and 6 above, and further in view of De Zen '620.**

De Zen '620 teaches utilization of thermoplastic material for use in a structural form, col. 2, lines 40-41. Therefore, to have formed the modified Coleman form of a thermoplastic polymer, thus taking advantage of such an old and well known material in the building art, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by De Zen '620.

**Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman '525 as applied to claims 1, 3, 4, and 6 above, and further in view of any of Dirksing, Hasty, Narva, Goth and Szabo.**

Coleman '525 as modified fails to disclose caps having pull-tabs to assist in removal of the caps from the conduits 20, 22, 24, 26. However, each of Hasty, Narva, Goth and Szabo disclose, as conventional, pull-tabs, 1c of Fig. 1 of Dirksing, 12/14/16 of Hasty, 24 of Narva, 11/21 of Goth, and col. 1, line 46 of Szabo. Therefore, to have formed the modified Coleman form 10 with caps 86 integral with the conduits 20 22, 24, 26 and possessing pull tabs, thus allowing easy removal thereof while providing a cap secured in place prior to final use of the form, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by any of Dirksing, Hasty, Narva, Goth and Szabo.

***Response to Arguments***

Applicant's arguments with respect to claims 1 and 3-6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



**MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 35A**

M. Safavi  
June 28, 2006